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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 13 (c)

CONCLUDING ITEMS

ADOPTION OF THE REPORT ON THE FORTY-NINTH SESSION

Draft report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-ninth session

Rapporteur: Mr. Marc Bossuyt

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* E/CN.4/Sub.2/1997/L.10 and Addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commisson on Human Rights, will be contained in documents E/CN.4/Sub.2/1997/L.11 and Addenda.

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1997/26. Privatization of prisons

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its decision 1989/110 of 1 September 1989 and 1992/107 of 27 August 1992,

Recalling also that in its decision 1993/109 of 25 August 1993, the Sub-Commission requested the Commission on Human Rights to authorize it to appoint at its forty-sixth session, one of its members to undertake a special study on this issue,

Mindful of Commission on Human Rights decision 1994/103 of 4 March 1993, in which the Sub-Commission was requested to reconsider its decisions to recommend a number of new studies, including the one relating to the privatization of prisons, and to submit its recommendations to the Commission at its fifty-first session,

Considering that following the guidance given by the Commission and in order to monitor developments on this issue, the Sub-Commission refrained from submitting new proposals to the Commission on this matter at its forty-sixth, forty-seventh and forty-eighth sessions,

Bearing in mind the working paper submitted by Mr. Miguel Alfonso Martínez in which he made a proposal as to the best possible way for the Sub-Commission to study the issue of privatization of prisons (E/CN.4/Sub.2/1991/56) and the outline prepared by Ms. Claire Palley on the possible utility, scope and structure of a special study on this matter (E/CN.4/Sub.2/1993/21),

Taking into account that in recent years the practice of privatizing penal facilities has been adopted by an increasing number of States and that a wide variety of issues relating to the advantages and disadvantages of the privatization of prisons have been raised and discussed by many sources,

Taking into account also the ample discussion held on this matter during this year's session of its working group on the administration of justice (see E/CN.4/Sub.2/1997/21, paras. 39-45) and the recommendation submitted thereon to the Sub-Commission by the working group (E/CN.4/Sub.2/1997/21, para. 46).

1. Decides to request its parent bodies to authorize it to appoint Mr. Ali Khan as special rapporteur in order to undertake an in-depth study on all issues relating to the privatization of prisons, including the obligation

to respect and implement the legislation in force in the country concerned and the possible civil responsibility of enterprises managing private prisons and their employees, a study which should be completed in time for consideration by the Sub-Commission at its fifty-second session;

2. Recommends the following decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, recalling its decision 1994/103 of 4 March 1994 and Sub-Commission on Prevention of Discrimination and Protection of Minorities decision 1993/109 of 25 August 1993, endorses the recommendation contained in Sub-Commission resolution 1997/26 of 28 August 1997 and recommends that the Economic and Social Council authorize the Sub-Commission to appoint Mr. Ali Khan as special rapporteur in order to undertake an in-depth study on all issues relating to the privatization of prisons, including the obligation to respect and implement the legislation in force in the country concerned and the possible civil responsibility of enterprises managing private prisons and their employees, to be completed in time for consideration by the Sub-Commission at its fifty-second session."

36th meeting
28 August 1997
[Adopted without a vote. See chap. XI.]

1997/27. Question of human rights and states of emergency

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having considered the final report of Mr. Leandro Despouy on "Protection of human rights during states of emergency" and the tenth annual list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency (E/CN.4/Sub.2/1997/19 and Add.1),

1. Thanks the Special Rapporteur for the tenth annual list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency (E/CN.4/Sub.2/1997/19/Add.1) and for his final report on the protection of human rights during states of emergency (E/CN.4/Sub.2/1997/19);

2. Decides to request Mr. Ioan Maxim to serve as the new Special Rapporteur on the question of human rights and states of emergency and to submit in the eleventh annual report an updated list of States which have proclaimed or extended a state of emergency, and a list - to be submitted once

every five years - of those States which have terminated a state of emergency, together with further recommendations on the protection of human rights during states of emergency;

3. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/27 of 28 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, approves the decision of the Sub-Commission to request Mr. Ioan Maxim to serve as the new Special Rapporteur on the question of human rights and states of emergency and to submit in the eleventh annual report an updated list of States which have proclaimed or extended a state of emergency, and a list - to be submitted once every five years - of those States which have terminated a state of emergency, together with further recommendations on the protection of human rights during states of emergency."

36th meeting
28 August 1997
[Adopted without a vote. See chap. XI.]

1997/28. Question of the impunity of perpetrators of violations of human rights (civil and political rights)

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, other relevant human rights instruments and the Geneva Conventions of 12 August 1949,

Recalling the interdependence and indivisibility of civil and political rights and economic, social and cultural rights,

Convinced that the increasingly widespread practice worldwide of ensuring impunity for perpetrators of violations of human rights is a fundamental obstacle to the observance of human rights,

Recalling its resolution 1992/23 of 27 August 1992, in which it was decided that a study should be carried out on the impunity of perpetrators of

violations of human rights, and Commission on Human Rights resolution 1993/43 of 5 March 1993, in which the Commission endorsed the decision of the Sub-Commission,

Recalling also its resolution 1993/37 of 26 August 1993 and its resolution 1994/34 of 26 August 1994, in which it decided, in order to facilitate the treatment of the question, to entrust Mr. Louis Joinet with the completion of the first aspect of the study, concerning civil and political rights, as well as its resolution 1995/35 of 24 August 1995 and its decision 1996/119 of 29 August 1996,

Bearing in mind section II, paragraph 91 of the Vienna Declaration and Programme of Action (A/CONF.157/23), in which the World Conference on Human Rights supported the efforts of the Commission and the Sub-Commission to intensify opposition to the practice of ensuring impunity for perpetrators of violations of human rights,

1. Welcomes with satisfaction the final report of the Special Rapporteur on the question of the impunity of perpetrators of violations of human rights (civil and political rights), Mr. Louis Joinet (E/CN.4/Sub.2/1997/20) and in particular the set of principles for the protection and promotion of human rights through action to combat impunity contained in annex II thereto;

2. Thanks the Special Rapporteur for having undertaken extensive consultations during the forty-ninth session of the Sub-Commission in order to revise the set of principles in accordance with the views expressed by the Sub-Commission at its forty-ninth session;

3. Decides to transmit the revised set of principles for the protection and promotion of human rights through action to combat impunity to the Commission on Human Rights at its fifty-fourth session, with a view to its possible transmission to the General Assembly, through the Economic and Social Council.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XI.]

1997/29. Freedom of movement and population transfers

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the right of everyone lawfully within the territory of a State to liberty of movement and freedom to choose his or her residence and the prohibition of arbitrary deprivation of the right to enter one's own country as set out in article 12 of the International Covenant on Civil and Political Rights and article 13 of the Universal Declaration of Human Rights,

Recognizing that practices of forcible exile, mass expulsion and deportation, population transfer, forcible population exchange, unlawful evacuation, eviction and forcible relocation, "ethnic cleansing" and other forms of forcible displacement of populations within a country or across borders not only deprive the affected populations of their rights to freedom of movement but also threaten the peace and security of States,

Recalling the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights, and article 14 of the Universal Declaration of Human Rights, which reaffirm that everyone, without distinction of any kind, is entitled to the right to seek and to enjoy in other countries asylum from persecution, as well as the right to return to one's own country,

Recalling also its resolutions 1995/13 of 18 August 1995 and 1996/9 of 23 August 1996, in which it decided to continue its consideration of the question of population displacement and to keep under constant review any developments in the right to freedom of movement, including the right to seek asylum, the right to remain and the right to return,

Recalling further that in its resolution 1996/9 it requested the Secretary-General to convene an expert group seminar on population transfer,

Expressing its appreciation of the work and of the final report of the Special Rapporteur on human rights and population transfer, Mr. Awn Al-Khasawneh (E/CN.4/Sub.2/1997/23), as well as the conclusions and recommendations of the expert group seminar on the human rights dimensions of population transfer, held in Geneva from 17 to 21 February 1997, contained therein,

Noting that policies and practices of forcible displacement continue to be the major causes of refugee flows and the displacement of persons within States,

Concerned that the growing number of refugees and internally displaced persons worldwide poses a serious threat to peace and security and that restrictive policies of many States may lead to difficulties for people leaving their country in order to seek asylum, as well as to the detention of refugees and asylum seekers,

Noting the need to further rationalize and harmonize the various international standards in this complex and evolving area,

Convinced that a comprehensive strategy needs to be devised to implement the standards in tangible programmes of action within both a regional and national context,

1. Welcomes the final report of the Special Rapporteur on the human rights and population transfer (E/CN.4/Sub.2/1997/23) and the draft declaration on population transfer and the implantation of settlers annexed thereto, as a first step towards defining the standards and legal norms pertaining to population transfer and the freedom of movement;

2. Welcomes the working paper on the right of freedom of movement and related issues prepared by Mr. Volodmyr Boutkevitch (E/CN.4/Sub.2/1997/22) as a contribution towards a comprehensive approach to combating policies and practices of forcible displacement;

3. Affirms the right of persons to be protected from forcible displacement and to remain in peace in their own homes, on their own lands and in their own countries;

4. Also affirms the right of refugees and internally displaced persons to return voluntarily, in safety and dignity, to their countries of origin and, within them, to their places of origin or choice, and urges Governments to assist in and facilitate such return;

5. Urges Governments and other entities involved to do everything possible to stop and prevent all practices of forced displacement, population transfer and "ethnic cleansing" in violation of international law;

6. Also urges all States to respect the principle of non-refoulement and to safeguard and give effect to the right of everyone to seek and to enjoy in other countries asylum from persecution;

7. Strongly encourages all Governments and other entities, including intergovernmental and non-governmental organizations, to intensify their cooperation and assistance to implement the relevant international standards in order to address the serious problems resulting from forcible displacement, and the root causes of such displacement;

8. Decides, in its further work on the right to freedom of movement, including the right to remain, the right to leave and seek asylum and the right to return, to examine the legal standards applicable to different types of forced displacement and any lacunae between those standards, in time for submission to the Sub-Commission at its fifty-first session;

9. Also decides to convene a further expert seminar, in close cooperation with relevant intergovernmental and non-governmental organizations and without financial implications, to assist in and to make practical recommendations for the further work of the Sub-Commission on the right to freedom of movement;

10. Further decides to recommend to the Commission on Human Rights that the final report of the Special Rapporteur on human rights and population transfer, Mr. Awn Al-Khasawneh, be published and widely disseminated;

11. Recommends to the Commission on Human Rights the following draft decision for adoption:

> "The Commission on Human Rights approves resolution 1997/29 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and recommends to the Economic and Social Council that the final report of the Special Rapporteur on human rights and population transfer, Mr. Awn Al-Khasawneh (E/CN.4/Sub.2/1997/23), be published and widely disseminated."

16th meeting
28 August 1997
[Adopted without a vote. See chap. XII.]

1997/30. Study concerning the right to freedom of movement

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling the Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including His Own, and to Return to His Country (United Nations publication, Sales No. E.64.XIV.2), submitted to the

Sub-Commission at its fifteenth session in 1963 by the Special Rapporteur, Mr. José D. Ingles (Philippines), and the draft principles respecting this right adopted by the Sub-Commission at the same session,

Recalling also the study concerning an analysis of the current trends and developments regarding the right to leave any country including one's own, and to return to one's own country (E/CN.4/1988/35 and Add.1 and Add.1/Corr.1), submitted to the Sub-Commission at its fortieth session by the Special Rapporteur, Mr. C.L.C. Mubanga-Chipoya (Zambia),

Reaffirming the right of everyone lawfully within the territory of a State to liberty of movement and freedom to choose his residence, and the prohibition of arbitrary deprivation of the right to leave any country, including one's own, and to return to one's country, as set out in article 12 of the International Covenant on Civil and Political Rights and article 13 of the Universal Declaration of Human Rights,

Taking note of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/23), which reaffirms that everyone, without distinction of any kind, is entitled to the right to seek and to enjoy in other countries asylum from persecution, as well as the right to return to his own country,

Recalling its decision 1996/109 of 23 August 1996, in which the Sub-Commission, mindful of the links between the protection of minorities, prevention of discrimination, population movements and displacements, freedom of movement, the right to leave and to return to one's own country and the right to seek and enjoy asylum, decided, without a vote, to entrust Mr. Volodymyr Boutkevitch with the task of preparing, without financial implications, a working paper on the right to freedom of movement and related issues,

1. Welcomes the working paper on the right to freedom of movement and related issues prepared by Mr. Volodymyr Boutkevitch (E/CN.4/Sub.2/1997/22);

2. Decides, since this subject requires careful and comprehensive inquiry, to recommend to the Commission on Human Rights and the Economic and Social Council the appointment of Mr. Volodymyr Boutkevitch as Special Rapporteur with the task of preparing an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, to have the possibility to enter other countries without discrimination, and to seek and enjoy asylum,

and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights;

3. Requests the Special Rapporteur to submit a preliminary report to the Sub-Commission at its fifty-first session;

4. Recommends the following draft decision to the Commission on Human Rights for adoption:

"The Commission on Human Rights, taking note of resolution 1997/30 of 28 August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, endorses the decision of the Sub-Commission to appoint Mr. Volodymyr Boutkevitch as Special Rapporteur with the task of preparing an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, to have the possibility to enter other countries, without discrimination, and to seek and enjoy asylum, and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights. The Commission also decides to invite Governments, competent bodies of the United Nations, the specialized agencies, regional intergovernmental organizations and non-governmental organizations to provide or continue to provide information on this question, and recommends the following draft decision to the Economic and Social Council for adoption:

'The Economic and Social Council, taking note of Commission on Human Rights decision 1998/... of ..... 1998, approves the endorsement by the Commission on Human Rights of the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint Mr. Volodymyr Boutkevitch as Special Rapporteur with the task of preparing an analysis of current trends and developments in respect of the right of everyone to leave any country, including his own, and to return to his country, and to have the possibility to enter other countries without discrimination, and to seek and enjoy asylum, and to study in particular the extent of restrictions permissible under article 12, paragraph 3, of the International Covenant on Civil and Political Rights, and to submit a preliminary report

to the Sub-Commission at its fifty-first session, and requests the Secretary-General to provide all assistance necessary to enable him to complete his study.'"

36th meeting
28 August 1997
[Adopted without a vote. See chap. XII.]

1997/31. The right to return

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the right of every person to return to his or her own country, as enshrined in article 13.2 of the Universal Declaration of Human Rights and article 5 (d) (ii) of the International Convention on the Elimination of All Forms of Racial Discrimination, and the prohibition of arbitrary deprivation of the right to enter one's own country contained in article 12.4 of the International Covenant on Civil and Political Rights,

Recalling its resolution 1996/9 of 23 August 1996 in which it affirmed the right of refugees and internally displaced persons to return voluntarily, in safety and dignity, to their country of origin and/or within it to their place of origin or choice, and in which it decided to continue to study the question of the freedom of movement, including the right to return,

Recognizing the fundamental significance of the observance and promotion of the right to return voluntarily to one's country or place of origin as a principal means of resolving the problems and suffering of refugees and internally displaced persons,

Conscious that the arbitrary deprivation of nationality, prohibited by article 15.2 of the Universal Declaration of Human Rights, constitutes a violation of a fundamental and inalienable human right and an impediment to the right to return to one's country,

Recalling the Convention of the Reduction of Statelessness,

Aware of Commission on Human Rights resolution 1997/36 of 11 April 1997 entitled "Human rights and arbitrary deprivation of nationality", in which the Commission reaffirmed the importance of the right to nationality of every human person as an inalienable human right, recognized that arbitrary deprivation of nationality on racial, national, ethnic or religious grounds is a violation of human rights and fundamental freedoms, and called upon all States to refrain from taking measures and from enacting legislation that

discriminates against persons or groups of persons on grounds of race, colour or national or ethnic origin by nullifying or impairing the exercise, on an equal footing, of their right to nationality, and to repeal such legislation if it already exists,

Concerned that the plight of many refugees in certain parts of the world may represent a serious denial of their right to return and of their right to a nationality, and is likely to result in a serious increase in the phenomenon of statelessness,

1. Reaffirms the fundamental right of refugees and internally displaced persons to return voluntarily, in safety and dignity, to their country of origin and/or within it to their place of origin or choice;

2. Emphasizes the crucial importance of the right to return voluntarily to one's country or place of origin as a principal means of long-term resolution of the plight of refugees and internally displaced persons;

3. Reaffirms the fundamental and inalienable nature of the right of every human person to a nationality;

4. Emphasizes its opposition to all instances of arbitrary deprivation of nationality, especially those based on racial, national, ethnic or religious grounds, as a violation of human rights and fundamental freedoms and an impediment to the right to return to one's country;

5. Urges all States to respect and promote the right to return and the right to a nationality;

6. Particularly urges Governments of host States and Governments of countries from which refugees originate actively to negotiate with each other and, where negotiations have not yet been successful, to use the good offices of the Secretary-General or of the United Nations High Commissioner for Human Rights, or neutral third party mediation, and to include representatives of the refugees and of the Office of the United Nations High Commissioner for Refugees, in a genuine and concerted effort to realize the primary purpose of such negotiations, which is to make possible the voluntary repatriation of the refugees to their country of origin without further unnecessary delay, using where necessary the mechanism of an internationally monitored verification process to determine, in accordance with international legal principles, which of the refugee population have the right to return;

7. Requests the United Nations High Commissioner for Refugees to take all necessary steps, in line with the Convention on the Reduction of Statelessness, to ensure that refugees do not become stateless;

8. Calls upon Governments to revise their citizenship laws, with the technical assistance of the Centre for Human Rights and with the advice of the Office of the United Nations High Commissioner for Refugees so that these laws are brought into accord with international human rights law and with the Convention on the Reduction of Statelessness;

9. Decides to keep this matter under consideration at its fiftieth session.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XII.]

1997/32. Role of the Sub-Commission in the promotion, full realization and protection of the rights of children and youth

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling General Assembly resolutions 51/77 on the rights of the child and 51/76 on the girl child and Commission on Human Rights resolutions 1996/85 and 1997/78 on the rights of the child,

Reaffirming that in accordance with the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, and the Beijing Declaration and Platform for Action, adopted by the Fourth World Conference on Women, national and international mechanisms and programmes should be strengthened for the respect of all rights of all children,

Encouraged by the widespread commitment and political will shown by the large number of States that have become parties to the Convention on the Rights of the Child,

Profoundly concerned, nevertheless, at both the lack of realization and continued violations of the rights of children and youth in many parts of the world, due, inter alia, to lack of resources and inadequate implementation of the instruments mentioned above and other relevant national and international standards,

Reaffirming that all States have a duty to fulfil the obligations they have undertaken under the various international instruments to which they are

parties or have accepted and emphasizing in this regard the importance of the full implementation by States parties of the provisions of the Convention on the Rights of the Child,

Aware that at both the national and the international level the norms relating to the promotion and protection of the human rights of children and youth are adopted, implemented and monitored by adults and that violations of those rights are also mainly committed by adults, facts which highlight the importance of education aimed at making adults more aware of the mentality, needs and predicaments of children and youth in a given society,

Having considered the report of the Working Group on Contemporary Forms of Slavery on its twenty-second session (E/CN.4/Sub.2/1997/13),

Mindful of the general and other recommendations included in the Working Group's report, in particular those relating to the sexual exploitation of children, the protection of minors from exposure to or involvement in pornography, illegal and pseudo-illegal adoptions aimed at the exploitation of children, allegations of removal of organs from children for the purpose of commercial transplants and non-therapeutical research, the exploitation of child labour, the sale of children, child abuse and the exploitation of children,

Convinced that the Sub-Commission can and must play a positive role in the promotion and protection of the rights of children and youth,

Aware that owing to the large number of United Nations treaty and non-treaty bodies concerned with the promotion and protection of the human rights of children, the role to be played by the Sub-Commission in this field should not duplicate the action and terms of reference of those bodies,

1. Expresses its deep appreciation to the Working Group on Contemporary Forms of Slavery, to its Chairperson-Rapporteur, Ms. Halima Embarek Warzazi, and to its other members for the work relating to the rights of children and youth carried out at its twenty-second session;

2. Expresses its deep conviction that the Sub-Commission can best play a constructive role in the promotion, full realization and protection of the rights of children and youth by drawing upon the expertise of the various United Nations organs, bodies and legal instruments, as well as of the intergovernmental and non-governmental organizations directly or indirectly involved in this sphere, in order to contribute, by means of specific

recommendations addressed to them, to improving coordination and cooperation among those entities so as to facilitate concrete action aimed at the realization of all rights of all children and youth;

3. Decides to continue to review at its fiftieth session, as a separate item of its agenda and with due priority, the situation regarding the promotion, full realization and protection of the rights of children and youth, and to provide for sufficient time for its consideration.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XIII.]

1997/33. Injurious effects of anti-personnel landmines

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking into account that anti-personnel landmines are a major instrument of grave violations of human rights, in particular the right to life,

Recalling its resolutions 1995/24 of 24 August 1995 and 1996/15 of 23 August 1996, in which it declared itself in favour of a total ban on the production, marketing and use of anti-personnel landmines,

Stressing the urgency for the Sub-Commission to follow up this issue in order to guarantee the full respect and the implementation of all relevant conventions, protocols and resolutions,

Welcoming the initiative of the Organization of American States, which in June 1996 called for the establishment of an anti-personnel mine-free zone in the Americas,

Taking note with satisfaction that the Council of Ministers of the Organization of African Unity, in February 1996, urged subregional organizations on the continent to undertake the initiatives for the prohibition of anti-personnel landmines in support of the commitment of the Organization of African Unity to a total ban on landmines,

Taking note with satisfaction also of the appeal launched by the European Parliament on 13 May 1996 to all member States to ban unilaterally the production of anti-personnel landmines and to destroy existing stocks,

Welcoming the decision of the international conference held in Ottawa from 3 to 5 October 1996, which brought together more than 40 States, to support a global ban on anti-personnel landmines and to consider short- and medium-term measures to achieve this end,

Welcoming also the decision to move towards a ban on landmines, taken at the international conference held in Brussels from 24 to 27 June 1997, at which participants signed a declaration and began negotiations on a treaty,

Welcoming further the convening of the international conferences to be held in Oslo from 1 to 19 September 1997 to finalize negotiations and in Ottawa from 2 to 4 December 1997, at which the treaty will be signed,

Regretting the inadequate result of the Review Conference of States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects held, in Geneva in May 1996, as regards the distinction made between "intelligent" and "dumb" mines and the nine-year period given to States to stop using undectable anti-personnel mines,

Gravely concerned at the constant violation of the rights to life and to security of person, particularly of vulnerabl groups of civilians such as peasants, indigenous peoples and children, caused by the use of anti-personnel landmines,

Bearing in mind that landmines cause death, maiming and psychological damage and have economic and environmental effects,

Expressing the hope that United Nations action in favour of mine clearance will in the near future result in the total and final elimination of the scourge of unexploded landmines,

Regretting that funds are lacking to improve mine-clearance techniques and step up rehabilitation programmes for the victims of anti-personnel landmines,

1. Reaffirms its support for a total ban on the production, stockpiling, transfer and use of anti-personnel landmines, as a means to protect the right to life;

2. Urges States that have not yet done so to sign and ratify the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects and all the Protocols thereto, including the Protocol II on Prohibitions and Restrictions on the Use of Mines, Booby-Traps and Other Devices as Amended on 3 May 1996;

3. Urges all States to modify, where necessary, their legislation in order to prohibit the production, stockpiling, transfer and use of anti-personnel landmines in and from their territories, and to work towards an international ban on landmines;

4. Considers the date for the next Review Conference, scheduled for 2001, to be too far away in view of the existing situation with respect to this matter, which requires an urgent solution;

5. Strongly urges Governments to participate actively in the Diplomatic Conference to Negotiate a Total Prohibition of Anti-Personnel Mines, to be held in Oslo from 1 to 19 September 1997, and to commit themselves to signing an international treaty banning anti-personnel mines at the Ottawa Conference to be held from 2 to 4 December 1997;

6. Urges Member States to promote the establishment of regional and subregional zones free of anti-personnel mines;

7. Reiterates its request to Governments and the international community to pursue a policy of information, prevention, rehabilitation and reintegration for the victims of anti-personnel landmines, particularly children, and to take the economic and social measures considered necessary for that purpose;

8. Again encourages Governments, organizations and individuals that can do so to respond favourably to the request for voluntary contributions to the United Nations mine-clearance programme, if possible on a regular basis;

9. Requests the Secretary-General to transmit to all Governments, in particular those of States which in the past have laid anti-personnel landmines in the territory of other States, the Sub-Commission's appeal for voluntary contributions to the mine-clearance programme and to the Voluntary Trust Fund for Assistance in Mine Clearance established in November 1994;

10. Decides to consider this question at its fiftieth session under the same agenda item in order to ensure the necessary follow-up within the framework of the full enjoyment of human rights and the strengthening of international humanitarian law.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XIV.]

1997/34. Respect for humanitarian and human rights law provisions in United Nations peacekeeping operations

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Affirming the need to respect the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the relevant provisions of the Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto,

Recalling that according to common article 1 of the Geneva Conventions the High Contracting Parties undertake not only to respect but also to ensure respect of the obligations under the Conventions,

Convinced that States parties to the Geneva Conventions and the international human rights conventions are in no way relieved of their humanitarian and human rights obligations when they put military contingents at the disposal of the United Nations,

Gravely concerned at incidents in the past in which such military contingents remained inactive while witnessing grave violations of provisions of humanitarian law, including acts of genocide,

Concerned also by continued allegations of violations of human rights by United Nations contingents engaged in peacekeeping operations,

1. Emphasizes that the conduct of military contingents put at the disposal of the United Nations should always be in conformity with the norms of international humanitarian law and international human rights law;

2. Recommends that the rules of engagement applicable to United Nations peacekeeping operations should contain explicit references to these obligations;

3. Requests the Secretary-General to disseminate the Guidelines for United Nations Forces Regarding Respect for International Humanitarian Law of 1996 drafted by the United Nations in consultation with the International Committee of the Red Cross.

36th meeting
28 August 1997
[Adopted without a vote. See chap. XIV.]